

(1) are implemented with uniformity throughout the agency, to the extent practicable;

(2) are implemented only after granting due consideration to the use or partial use, as appropriate, of existing electronic commerce and electronic data interchange systems and infrastructures such¹ the Federal acquisition computer network architecture known as FACNET;

(3) facilitate access to Federal Government procurement opportunities, including opportunities for small business concerns, socially and economically disadvantaged small business concerns, and business concerns owned predominantly by women; and

(4) ensure that any notice of agency requirements or agency solicitation for contract opportunities is provided in a form that allows convenient and universal user access through a single, Government-wide point of entry.

(d) Implementation

The Administrator shall, in carrying out the requirements of this section—

(1) issue policies to promote, to the maximum extent practicable, uniform implementation of this section by executive agencies, with due regard for differences in program requirements among agencies that may require departures from uniform procedures and processes in appropriate cases, when warranted because of the agency mission;

(2) ensure that the head of each executive agency complies with the requirements of subsection (c) of this section with respect to the agency systems, technologies, procedures, and processes established pursuant to this section; and

(3) consult with the heads of appropriate Federal agencies with applicable technical and functional expertise, including the Office of Information and Regulatory Affairs, the National Institute of Standards and Technology, the General Services Administration, and the Department of Defense.

(e) Report

Not later than March 1 of each even-numbered year through 2004, the Administrator shall submit to Congress a report setting forth in detail the progress made in implementing the requirements of this section. The report shall include the following:

(1) A strategic plan for the implementation of a Government-wide electronic commerce capability.

(2) An agency-by-agency summary of implementation of the requirements of subsection (c) of this section, including timetables, as appropriate, addressing when individual agencies will come into full compliance.

(3) A specific assessment of compliance with the requirement in subsection (c) of this section to provide universal public access through a single, Government-wide point of entry.

(4) An agency-by-agency summary of the volume and dollar value of transactions that were conducted using electronic commerce methods during the previous two fiscal years.

(5) A discussion of possible incremental changes to the electronic commerce capability referred to in subsection (c)(4) of this section to increase the level of government contract information available to the private sector, including an assessment of the advisability of including contract award information in the electronic commerce functional standard.

(f) “Electronic commerce” defined

For the purposes of this section, the term “electronic commerce” means electronic techniques for accomplishing business transactions, including electronic mail or messaging, World Wide Web technology, electronic bulletin boards, purchase cards, electronic funds transfers, and electronic data interchange.

(Pub. L. 93-400, § 30, as added Pub. L. 103-355, title IX, § 9001(a), Oct. 13, 1994, 108 Stat. 3399; Pub. L. 105-85, div. A, title VIII, § 850(a), Nov. 18, 1997, 111 Stat. 1847; Pub. L. 106-398, § 1 [[div. A], title VIII, § 810(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A-210.)

AMENDMENTS

2000—Subsec. (e). Pub. L. 106-398, § 1 [[div. A], title VIII, § 810(d)(1)], substituted “Not later than March 1 of each even-numbered year through 2004” for “Not later than March 1, 1998, and every year afterward through 2003” in introductory provisions.

Subsec. (e)(4). Pub. L. 106-398, § 1 [[div. A], title VIII, § 810(d)(2)], substituted “An” for “Beginning with the report submitted on March 1, 1999, an” and “two fiscal years” for “calendar year”.

1997—Pub. L. 105-85 amended section catchline and text generally. Prior to amendment, section consisted of subssecs. (a) to (d) requiring the Administrator to establish a program for development and implementation of a Federal acquisition computer network architecture to be known as FACNET.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 effective Oct. 1, 2000, see section 1 [[div. A], title VIII, § 810(e)] of Pub. L. 106-398, set out as a note under section 637 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-85 effective 180 days after Nov. 18, 1997, see section 850(g) of Pub. L. 105-85, set out as a note under section 2302c of Title 10, Armed Forces.

EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 251 of this title.

§ 426a. Repealed. Pub. L. 105-85, div. A, title VIII, § 850(b), Nov. 18, 1997, 111 Stat. 1848

Section, Pub. L. 93-400, § 30A, as added Pub. L. 103-355, title IX, § 9001(a), Oct. 13, 1994, 108 Stat. 3400, related to Federal acquisition computer network implementation.

EFFECTIVE DATE OF REPEAL

Repeal effective 180 days after Nov. 18, 1997, see section 850(g) of Pub. L. 105-85, set out as an Effective Date of 1997 Amendment note under section 2302c of Title 10, Armed Forces.

GAO DETERMINATION OF ELIGIBLE AGENCY CONTRACTS

Section 9004 of Pub. L. 103-355 required Comptroller General to submit to Administrator for Federal Procurement Policy and congressional committees, not

¹ So in original. Probably should be followed by “as”.

later than 3 years after Oct. 13, 1994, a report on classes of contracts in amounts greater than micro-purchase threshold and not greater than simplified acquisition threshold that are not suitable for acquisition through a system with full FACNET capability, and authorized Federal Acquisition Regulatory Council, not earlier than 3 years after Oct. 13, 1994, to make determination that such class or classes of contracts were not suitable for acquisition through such a system, prior to repeal by Pub. L. 105-85, div. A, title VIII, §850(c), Nov. 18, 1997, 111 Stat. 1848.

§ 427. Simplified acquisition procedures

(a) Requirement

In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for—

(1) special simplified procedures for purchases of property and services for amounts not greater than the simplified acquisition threshold; and

(2) special simplified procedures for purchases of property and services for amounts greater than the simplified acquisition threshold but not greater than \$5,000,000 with respect to which the contracting officer reasonably expects, based on the nature of the property or services sought and on market research, that offers will include only commercial items.

(b) Prohibition on dividing purchases

A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the simplified acquisition procedures required by subsection (a) of this section.

(c) Promotion of competition required

In using simplified acquisition procedures, the head of an executive agency shall promote competition to the maximum extent practicable.

(d) Consideration of offers timely received

The simplified acquisition procedures contained in the Federal Acquisition Regulation shall include a requirement that a contracting officer consider each responsive offer timely received from an eligible offeror.

(e) Interim reporting rule

Until October 1, 2004, procuring activities shall continue to report under section 417(d) of this title procurement awards with a dollar value of at least \$25,000, but less than \$100,000, in conformity with the procedures for the reporting of a contract award greater than \$25,000 that were in effect on October 1, 1992.

(f) Special rules for commercial items

The Federal Acquisition Regulation shall provide that, in the case of a purchase of commercial items using special simplified procedures, an executive agency—

(1) shall publish a notice in accordance with section 416 of this title and, as provided in subsection (b)(4) of such section, permit all responsible sources to submit a bid, proposal, or quotation (as appropriate) which shall be considered by the agency;

(2) may not conduct the purchase on a sole source basis unless the need to do so is justified

in writing and approved in accordance with section 2304 of title 10 or section 253 of this title, as applicable; and

(3) shall include in the contract file a written description of the procedures used in awarding the contract and the number of offers received.

(Pub. L. 93-400, §31, as added Pub. L. 103-355, title IV, §4201(a), Oct. 13, 1994, 108 Stat. 3342; amended Pub. L. 104-106, div. D, title XLII, §4202(c), title XLIII, §4302(b), Feb. 10, 1996, 110 Stat. 653, 658; Pub. L. 104-201, div. A, title X, §1074(b)(6), Sept. 23, 1996, 110 Stat. 2660; Pub. L. 105-85, div. A, title VIII, §850(d), Nov. 18, 1997, 111 Stat. 1848; Pub. L. 106-65, div. A, title VIII, §818, Oct. 5, 1999, 113 Stat. 712.)

AMENDMENTS

1999—Subsec. (e). Pub. L. 106-65 substituted “October 1, 2004” for “October 1, 1999”.

1997—Subsecs. (e) to (g). Pub. L. 105-85 redesignated subsecs. (f) and (g) as (e) and (f), respectively, and struck out heading and text of subsec. (e). Text read as follows: “The simplified acquisition procedures provided in the Federal Acquisition Regulation pursuant to section 2304(g)(1)(A) of title 10, section 253(g)(1)(A) of this title, and subsection (a)(1) of this section may not be used by an agency after December 31, 1999, for contracts in amounts greater than \$50,000 and not greater than the simplified acquisition threshold until a certification has been made pursuant to section 426a(a)(2) of this title that the agency has implemented a full FACNET capability.”

1996—Subsec. (a). Pub. L. 104-106, §4202(c)(1), as amended by Pub. L. 104-201, substituted “shall provide for—” and pars. (1) and (2) for “shall provide for special simplified procedures for contracts for acquisition of property and services that are not greater than the simplified acquisition threshold.”

Subsec. (e). Pub. L. 104-106, §4302(b)(2), substituted “pursuant to section 2304(g)(1)(A) of title 10, section 253(g)(1)(A) of this title, and subsection (a)(1) of this section” for “pursuant to this section”.

Pub. L. 104-106, §4302(b)(1), designated subsec. (e)(2)(B) as entire subsec. and struck out former pars. (1) and (2)(A) which read as follows:

“(1) EFFECT OF INTERIM FACNET CAPABILITY.—The simplified acquisition procedures provided in the Federal Acquisition Regulation pursuant to this section may not be used by a procuring activity of an agency for contracts in amounts greater than \$50,000 and not greater than the simplified acquisition threshold until a certification has been made pursuant to section 426a(a)(1) of this title that the procuring activity has implemented an interim FACNET capability.

“(2) EFFECT OF FULL FACNET CAPABILITY.—(A)(i) In the case of a procuring activity described in clause (ii), the simplified acquisition procedures provided in the Federal Acquisition Regulation pursuant to this section may be used by the activity for contracts in amounts greater than \$50,000 and not greater than the simplified acquisition threshold.

“(ii) Clause (i) applies to any procuring activity—

“(I) that has not certified, pursuant to section 426a(a)(1) of this title, that it has implemented interim FACNET capability; and

“(II) that is in an agency that has excluded the procuring activity from the agency’s full FACNET certification under section 426a(a)(2) of this title on the basis that implementation of full FACNET capability would not be cost effective or practicable in that activity.”

Subsec. (g). Pub. L. 104-106, §4202(c)(2), added subsec. (g).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-85 effective 180 days after Nov. 18, 1997, see section 850(g) of Pub. L. 105-85, set out as a note under section 2302c of Title 10, Armed Forces.